

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Howard Boehm,)	
)	
Plaintiff,)	Case No. C-1-02-362
)	
vs.)	
)	
City of Portsmouth, et al.,)	
)	
Defendants.)	

Order Granting Summary Judgment

Plaintiff initiated this action by filing a complaint on May 22, 2002. He asserted claims pursuant to 42 U.S.C. § 1983 against the City of Portsmouth, its Mayor, and its Public Service Director. Plaintiff alleged that the Defendants had violated his right to due process as guaranteed by the United States Constitution.

On October 30, 2003, Defendants filed a well-supported motion for summary judgment in this matter. Each of the three Defendants argued for summary judgment with respect to each claim asserted against him or it. The motion was supported by evidence and citation to the controlling case law and other persuasive authority demonstrating that Defendants were entitled to summary judgment with respect to each claim.

As of December 2, 2003, Plaintiff had not filed a memorandum in opposition to Defendants' motion for summary judgment. Accordingly, the Court issued an order on that date

directing Plaintiff to show cause, on or before December 19, 2003, for the denial of Defendants' motion. The Court advised Plaintiff that it would consider Defendants' motion as unopposed in the event that he did not timely respond to the Show Cause Order. Nevertheless, Plaintiff did not respond.

Plaintiff bears the burden of proof with respect to each of the claims he has asserted in this matter. Because Defendants have carried their burden under Rule 56(c) of the Federal Rules of Civil Procedure of demonstrating that no genuine issue of material fact exists, the burden has shifted to Plaintiff to identify an issue for trial. See Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986). Plaintiff has made no attempt to do so; therefore, summary judgment in Defendants' favor with respect to all claims asserted in this matter is appropriate. See Fed.R.Civ.P. 56(e).

For that reason, Defendants' motion for summary judgment (Doc. 17) is hereby **GRANTED**. This action is **CLOSED**.

IT IS SO ORDERED.

_____/s/
Sandra S. Beckwith
United States District Judge